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LABOUR & E.S.I. DEPARTMENT

NOTIFICATION

The 21st May 2025

S.R.O. No. 304/2025—In pursuance of Section 17(1) of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 15th April 2025 passed in the I.D. Case No. 23 of 2022 by the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the Industrial Dispute between the Managements of (1) Engineer-in-Chief, RWS & S, Odisha, Bhubaneswar, (2) Engineer-in-Chief, Public Health, Odisha, Bhubaneswar, (3) Director, Odisha Water Corporation, (WATCO), Bhubaneswar and General Secretary, Nikhila Odisha Water Supply & Sanitation Employees' Union, Karmachari Bhawan, Unit-5, Block-10, Bhubaneswar was referred for adjudication is hereby published in the schedule below :—

SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE NO. 23 of 2022

Dated the 15th April 2025

Present :

Shri Benudhar Patra, B.Sc., LL.M.,
Presiding Officer,
Industrial Tribunal,
Bhubaneswar.

Between :

The Managements of —

- (1) Engineer-in-Chief, RWS & S,
Odisha, Bhubaneswar.
- (2) Engineer-in-Chief, Public Health,
Odisha, Bhubaneswar.
- (3) Director, Odisha Water Corporation,
(WATCO), Bhubaneswar.

. . First Party—Managements

And

General Secretary,
Nikhila Odisha Water Supply &
Sanitation Employees' Union,
Karmachari Bhawan, Unit-5,
Block -10, Bhubaneswar.

. . Second Party—Workmen

Appearances:

Sonali Mohapatra, Advocate

. . For 1st Party—No. 1

Shri P. K. Bhuyan, Advocate

. . For 1st Party—Nos. 2 & 3

Shri Lalit Nanda, Advocate

. . For the 2nd Party

AWARD

The Labour & E.S.I. Department of the Government of Odisha, on being satisfied that there exists an industrial dispute between the parties as mentioned *supra*, have referred the following schedule for adjudication vide their Order No. LESI-IR-ID-0052/2021-712-LESI, dated the 27th January 2022 :—

“Whether the demand of Nikhila Odisha Water Supply and Sanitation Employees Union for regularisation of service of daily wage employees engaged under the management of Engineer-in-Chief, RWS&S, Odisha, Bhubaneswar, Engineer-in-Chief, Public Health, Odisha and Director, Odisha Water Corporation (WATCO), Bhubaneswar is legal and/or justified ? If so, what relief they are entitled ?”

2. The factual background which culminated into the present reference is that on a complaint being raised by the General Secretary, Nikhil Odisha Water Supply & Sanitation Employees Union before the Conciliation Officer-*cum*-Additional Labour Commissioner, Odisha vide its charter of demands dated the 4th September 2019 claiming regularisation of temporary employees and for implementation of the statutory benefits by the first party managements, the managements were noticed to attend a joint enquiry, pursuant to which the parties submitted their written views and after protracted discussions since the managements expressed their inability for consideration of the claim of the Union for regularisation of the daily wage employees there could not be any settlement of the dispute and accordingly on failure of conciliation a report to the effect was submitted to the appropriate Government which made the instant reference to this Tribunal for adjudication.

3. The claim, as reflected in the statement of claim & rejoinder of the Union in short is that its members numbering 1483, who are daily wage employees deployed in various divisions of Odisha (the list of which is furnished along with the failure report) have been discharging their duties with utmost sincerity for more than 20-25 years and they have been deployed in the civil/ electrical/mechanical fields which require knowledge in technical skills and moreover come under the essential nature of duties. It is stated that although the disputants have been working continuously for a period ranging from 18 to 28 years on daily wage basis, yet the managements without considering their claim for regularisation has been paying special incentive @ Rs. 100 only per day as an allowance and further while in one hand the managements have admitted that revenue as well as house connections have been increased as per the target due to the continuous hard work of the disputants, but instead of taking any step for their regularisation proposal has been endorsed to the Government to extend an additional special incentive @ Rs. 100 per day in favour

of the disputants. Citing examples of similarly placed workmen in other Departments, who have been regularised apropos the Finance Department Circular No. 17815 (45)/F, dated the 12th April 1993 and Circular No. 227674/F, dated the 15th May 1997 read with FD Resolution No. 31715-FIN-BUD5-Misc.- 0009/2012-F, dated the 4th September 2012 and that of the contractual employees who have been regularised as per G.A. & P.G. Department Circular No. 7210(e)/Gen., dated the 3rd March 2021, it is claimed on behalf of the disputants that all the disputants involved herein having rendered continuous service for more than two decades under the managements the demand raised for their regularisation in service is quite justified and accordingly, the union has prayed to answer the reference in the affirmative.

4. The managements have entered contest in the dispute and filed their respective written statement. Resisting thhe claim advanced on behalf of the disputants, a common stand is taken by all the managements that the disputants involved herein have been engaged on daily wage basis informally (i.e. on hand receipt wage basis) after the cut off date i.e. the 12th April 1993 fixed by the Government and that too not against any sanctioned posts or following the accepted mode of recruitment procedure and therefore, the claim laid on their behalf being devoid of any merit needs rejection at the threshold. Further, while the first party management No. 1 challenges the maintainability of the reference on the ground of non-application of mind of the appropriate Government, the first party management No.3 challenges the maintainability of the reference as against it owing to the fact that pursuant to Government Notification, water supply and sewerage services having been shifted to WATCO for operation and maintenance and in the process some of the staff of first party Nos. 1 and 2 have been deployed under it without any information about their engagement and as a matter of fact the disputants involved herein are getting wages from the first party management Nos. 1 and 2, the instant reference is not maintainable as against the WATCO.

5. On the basis of the pleadings of the parties, the following issues have been framed for determination :—

ISSUES

- (i) Whether the case is maintainable ?
- (ii) Whether the demand of Nikhila Odisha Water Supply and Sanitation Employees Union for regularisation of service of daily wage employees engaged under the management of Engineer-in-Chief, RWS&S, Odisha, Bhubaneswar, Engineer-in-Chief, Public Health, Odisha and Director, Odisha Water Corporation (WATCO), Bhubaneswar is legal and/or justified ?
- (iii) If so, what relief they are entitled ?

6. To substantiate its claim, the second party union has examined one witness on its behalf and placed reliance on documents which have been marked as Exts. 1 to 21. Out of the first party managements, the first party management No. 1 remained content and did not chose to adduce any oral or documentary evidence in the case. However, the first party Nos. 2 and 3 in its turn has examined one Shri Pratap Keshari Singh (M.W.1) and placed reliance on documents marked Exts. A to F.

FINDINGS

7. *Issue No. (i)* — Maintainability of the reference is challenged by the management Nos. 1 and 3. In the context, while the first party management No. 1 has taken the stand that the Government without looking to the status of the disputants and the orders promulgated by the Government in Finance Department has made the instant reference in a mechanical manner, the first party management No. 3 has taken the stand that pursuant to Government Notification, water supply and sewerage services having been shifted to WATCO for operation and maintenance and in the process some of the staff of first party Nos. 1 and 2 have been deployed under it without there being any information of their engagement and moreover the disputants concerned in the dispute are all getting wages from the first party management Nos. 1 and 2, the instant reference is not maintainable against WATCO.

The learned counsel representing the disputants on the other hand, contended that the schedule which has been referred for adjudication by the Tribunal being the outcome of the appropriate Government's subjective satisfaction over existence of such a dispute between the parties, the objection raised on the score by the first party management Nos. 1 and 3 is not tenable. He went on to argue that there being no challenge to the order of reference by either of the management before any higher forum, the Tribunal which is a creation of the statute lacks competency to sit over the decision of the Government and hold it as not maintainable.

8. The rival contentions/submissions lead this Tribunal to examine the record to arrive at a conclusion, accordingly on scrutiny of the conciliation failure report and its annexures attached to the order of reference it is found that in connection with their grievance the disputants have claimed relief from all the first parties including WATCO i.e. the first party No. 3 and considering that aspect the Government keeping an eye over the conciliation failure report and upon its subjective satisfaction about existence of a dispute between the second party and the first parties have referred the demand of regularisation for adjudication to this Tribunal. As has been correctly pointed out by the learned counsel for the second party, the Tribunal is a creation of the Statute and therefore it lacks competency to sit over the decision arrived at by the Government and therefore, the challenge made with regard to the maintainability of the reference on behalf of both the managements i.e. management Nos. 1 and 3 fails and the Tribunal holds the reference to be maintainable.

Issue No. (i) is answered accordingly.

9. *Issue Nos. (ii) and (iii)* — The findings on Issue No. (iii) being dependent on the outcome of the decision on Issue No. (ii), both are taken up for determination for the sake of convenience.

At the outset, it needs mention that in course of hearing of the dispute, on a petition being filed by the second party union to delete names of 34 workers from out of the list of 1483 and 595 workers of the PHEO (first party No.2) and RWSS (first party No.1) respectively, an order was passed on the 16th October 2023 acceding to the request of the union and therefore, the present award is confined to all the workers as per list, excluding the following workers of the first party No.1 and first party No.2, represented through the second party union :—

| Sl. No. in the list | Name of the workers | Belonging to the |
|------------------------|---------------------|-------------------------|
| (1) | (2) | (3) |
| 1 | Binod Meher | PH Division, Sambalpur |
| 2 | Ananta Poda | Ditto |
| 3 | Raj Kisor Rout | RWS&S Division, Cuttack |

| (1) | (2) | (3) |
|-----|-------------------------|-------------------------------|
| 4 | Hari Swain | RWS&S Division, Cuttack |
| 5 | Golakha Dehuri | Ditto |
| 6 | Satughan Sahoo | Ditto |
| 7 | Antaryami Khuntia | RWS&S Division, Jagatsinghpur |
| 8 | Sanjay Kumar Khandual | Ditto |
| 9 | Haladhar Jit | RWS&S Division, Keonjhar |
| 10 | Surendra Kumar Raj | Ditto |
| 11 | Basant Kumar Jena | Ditto |
| 12 | Tankadhar Mohakud | Ditto |
| 13 | Birabhadra Nayak | Ditto |
| 14 | Basanta Kumar Behera | Ditto |
| 15 | Makar Taria | PH Division, Baripada |
| 16 | Sarat Chandra Mohapatra | Ditto |
| 17 | Alekha Bindhani | Ditto |
| 18 | Jagannath Mahalk | Ditto |
| 19 | Braja Kishore Biswal | PH Division-II, Cuttack |
| 20 | Harihara Tripathy | PH Division-I, Cuttack |
| 21 | Ambrit Das | Ditto |
| 22 | M.Apanna | Ditto |
| 23 | Ratha Charana Nath | Ditto |
| 24 | Susanta Kumar Behera | Ditto |
| 25 | Panchanan Patra | Ditto |
| 26 | Gagan Bhoi | Ditto |
| 27 | Rabinarayan Panda | Ditto |
| 28 | Sudesh Nayak | Ditto |
| 29 | Sibendra Samal | Ditto |
| 30 | Jayakrushna Behera | RWS&S, Nayagarh |
| 31 | Suresh Kumar Behera | Ditto |
| 32 | Lalit kumar Patra | RWS&S, Rayagada. |

10. In support of the demand of the union for regularisation of service of daily wages employees engaged under the managements, W.W.1 Shri Ranjan Kumar Baral examined on behalf of the second party relied on Ext. 1 and Ext. 20, the copies of letters of the Commissioner-cum-Secretary to Government, Housing & Urban Development Department of Government of Odisha, which disclose that HR staff numbering 1483 and 595 were engaged under different P. H. Divisions (first party No. 2) and RWSS Organisation, respectively. It further transpires from the said documents that taking into consideration the engagement of the disputants in essential nature of duties; their skill and experience and so also the compelling circumstances under which the disputants used to work beyond normal duty hours and even during odd hours, they were allowed special incentives of Rs.100 per day, firstly vide order, dated the 16th June 2015

and again vide order, dated the 2nd April 2018. He also places reliance on Ext. 2, the copy of letter of the Chief Engineer, PH(U), dated the 22nd August 2015 whereby all Superintending Engineers, P. H. Circle/Executive Engineers, P. H. Division were informed vide Exts.3 and 4, the detailed lists of HR staff engaged after the 12th April 1993 up to 2003 regarding payment of special incentive. Reliance is also placed on Exts. 5 and 6, the copies of Government Notifications regarding creation of WATCO and consequent upon such creation re-distribution and re-designation of different category of posts between WATCO and PHEO. W.W.1 also referred to Exts. 7, 8 and 9, the copies of orders of the Finance Department putting a ban on engagement of person on daily wage on and after the 12th April 1993, and different Resolutions of the Government Exts. 10 to 13 declining to regularise the daily wagers engaged after the 12th April 1993, Reference is also made to Ext. 14, the letter, dated the 6th June 2017 whereby the Engineer in P. H. had requested the union representatives to call off the strike on an assurance that the Government would examine and consider the demands of the Union within three months. W.W.1 also referred to Ext.15, the copy of Gazette Notification of the Law Department, dated the 3rd February 1992, which discloses that by enactment of the Orissa Essential Services (Maintenance) Act, 1988, any service connected with the supply or distribution of water and maintenance of water works was covered under the definition - "essential service". Ext. 16 and Ext. 17 are produced by W.W.1 to show that earlier he was issued with an identity card by Executive Engineer, P.H. Division, Bhubaneswar and now he is being issued with an identity card by M/s WATCO. To substantiate the averment that he is now performing duty on the direction of WATCO, W.W.1 has furnished copy of the office order, dated the 22nd May 2023 which has been marked as Ext. 19. It has been specifically deposed to by W.W.1 that although he has been discharging duties under the first party organization as a high skilled worker without there being any stigma to his career since 1998 and now getting Rs. 476 per day towards wages in addition to Rs.100 towards incentive, yet the management has not regularised his service, nor the other workers involved in the dispute, as a result they are deprived of getting house rent allowance, dearness allowance, gratuity, leave benefits etc. and moreover the benefits under the EPF and E.S.I. Schemes due to their non-coverage under the said Schemes. During cross-examination by the management of RWS & S (first party No.1), W.W.1 stated that pursuant to an advertisement he faced an interview and worked as a DLR/HR employee under the P. H. Department pursuant to issuance of an identity card initially by P. H. Organisation and subsequently by WATCO and he used to get his monthly salary from the P. H. Organisation. W.W.1 also faced cross-examination from the side of PH and WATCO. He stated during such cross-examination that his evidence-in-chief is in the capacity an office bearer of the Union and their charter of demands firstly relate to regularization in service of its members and secondly to get all the statutory benefits under the labour laws. He also gave out that being a Hand Receipt(HR) employee he has been working since last thirty years initially under the PH from 1994 to 2019, and now under M/s WATCO. He fairly admitted in his cross-examination that no appointment letter was issued to them, except the oral instruction for joining as HR employees. He feigned his knowledge regarding the Resolution of the Government, dated the 15th May 1997 whereby it was decided for absorption of NMRs/DLRs and job contract workers in regular service who were continuing prior to the 12th April 1993 and regarding the ban imposed by the Finance Department on engagement of daily wagers w.e.f. the 12th April 1993. He denied the suggestion of the managements that those who have got engaged after the 12th April 1993 are not entitled for regularization in service. W.W.1 did not dispute that they have been getting minimum wages as prescribed by the Government, nor the incentive of Rs. 200 per day on monthly basis, i.e. for 26 days as per the Government orders. He stoutly denied the suggestion of the managements that any engagement under the first party after the 12th April 1993 is illegal and that the disputants involved herein are not entitled for regularization in service.

11. Refuting the claim laid on behalf of the second party, while the first party No.1 did not adduce any rebuttal evidence but participated in the hearing, one witness is examined on behalf of first party Nos. 2 and 3 who is the Assistant Section Officer working in the office of the first party No. 2. He deposed that he is looking after the cases of first party No. 2 in Hon'ble High Court and other Courts and being well aware of the present case he has been authorized by the first party No. 2 to depose before this Tribunal by way of his evidence affidavit on behalf of first party Nos. 2 and 3. It is in his evidence-in-chief that the State Government having imposed restriction on engagement of temporary and casual workers, the reference of the instant dispute in absence of the Government being a party to the dispute, is not maintainable. Citing the Finance Department Resolution dated the 12th April 1993 (Ext. C), it is stated by M.W.1 that though the disputants were engaged informally after the 12th April 1993 up to 2003 in different P.H. Divisions, yet in absence of any sanctioned posts and non-adherence of procedure of recruitment, such engagement after the 12th April 1993 is to be treated not only illegal but also unsustainable. He deposed that wages as per the notification of the Labour and E.S.I Department from time to time are being paid to the daily wagers/HR workers, besides incentives as decided by the H&UD Departments vide Exts. E & F. His evidence further discloses that owing to the stipulation contained in Finance Department Circular No. 717815, dated the 12th April 1993, the first party managements are not in a position to place any proposal for conversion of these HR staff to work charged or to regularize them in service. He also filed and proved Ext. A, the copy of Gazette Notification No.17402-HUD-13-REFM-65-SCH-17-0065/2014/HUD, dated the 9th July 2015 of the Housing & Urban Development Department whereby the Government had created WATCO for the purpose of operation of water supply, Production & Distribution System; Operation & Maintenance of sewage collection, treatment and Operation & Maintenance of Sewerage network, sewage treatment & disposal; Ext. B, the copy of Gazette Notification No.16644-HUD-WS-SCH-0064/2019/HUD, dated the 11th September 2019 of the Housing & Urban Development Department redistributing of work and responsibilities among Public Health Engineering Organisation (PHEO), Orissa Water Supply & Sewerage Board(OWS & SB) and WATCO and Ext.D, the copy of Resolution, dated the 15th May 1997 of the Finance Department of Government of Orissa whereby the Government had formulated a scheme for absorption of NMR/DLR/Job Contract Workers under Regular Establishment.

M.W.1 was cross-examined at length by the second party and during such cross-examination he admitted that the disputants are members of a registered trade union having its Head Office at Bhubaneswar; that they are not covered under the EPF and E.S.I and that out of the disputants some of them retired/expired. Though he denied the suggestion that employees completing five years of service are not being paid Gratuity, but admitted that the employees engaged prior to the ban period i.e. the 12th April 1993 and absorbed in regular vacant posts get Gratuity. It was also elicited in his cross-examination that employees engaged before or after the 12th April 1993 but not absorbed in regular posts are not getting gratuity. By way of admission it was elicited from him that no resolution can override the provisions of Section 13 and 14 of the Payment of Gratuity Act; it being a Central Legislation. In Para. 28 of his cross-examination he has admitted that some employees engaged after the 12th April 1993 have been regularized pursuant to the Hon'ble Court's direction and one of such employees namely Sanatan Sahoo, who joined service as hand receipt after the 12th April 1993 has become a regular employee of the establishment and presently he is posted at Baripada. It has further been elicited from him in Para. 29 of his cross-examination that WATCO came into existence in the year 2019 and after formation of WATCO though the employees of the establishment were governed under the PH but worked under the WATCO and the wages/service conditions of employees of the establishment remained with the P.H. .. He also fairly admitted that representations of the union received from time to time by the management have been sent to the Government for consideration. It is in his cross-examination that although the disputants were engaged as per the requirement of the managements upon their physical test and assessment of technical knowledge relating to P.H.

work but they were not issued with any appointment letters. He also admitted that there is no provision for postretirement benefits for the daily wagers, nor rehabilitation assistance in respect of the disputants in case of their untimely death. While denying the claim for absorption of the disputants in regular service owing to their long rendition of service under the organization, M.W.1 admitted in his cross-examination that the disputants are deprived of the statutory benefits.

12. Based on the evidence, as discussed above, it is argued on behalf of the second party that there being no dispute over the fact of continuance of the disputants for more than two decades under the managements, which are the State Functionaries, the demand raised by the Union for their regularization in service is not only legal but also justified owing to their discharging duties against permanent; perennial and essential nature of works, and that too with a meager wages in comparison to their counterparts working in regular establishment. To buttress his argument, learned counsel representing the second party has cited the following decisions of the Hon'ble Apex Court.

- (i) Secretary, State of Karnataka Vs. Umadevi & others [2006 (4) SCC 1];
- (ii) Narendra Kumar Tiwari Vs. State of Jharkhand[20 18(8)SCC 238];
- (iii) Nihal Singh and others Vs. State of Punjab and others[2013 (11) SCR-1].

Per contra, the learned counsel representing the managements highlighted the ban imposed by the State Government on regularization of daily wagers and referring to the judgment rendered in Umadevi's case (*supra*) argued with vehemence that while in absence of sanctioned posts the authorities of the managements are not in a position to accede to the demand of the second party, but keeping in view their long rendition of service, the disputants are being paid incentives on two occasions @ Rs.100 per day over and above the minimum wages as prescribed by the Government from time to time for different categories of workers. It is further argued on behalf of the managements that the Government, who is competent enough to take a decision on the demand of the second party being not a party to the 'lis' the managements are not able to take any step to resolve the grievance of the second party, except to place their demand before the Government for consideration and to follow instructions received thereon. On the merit of the claim, learned counsel for the managements putting much emphasis on the cut-off date i.e. 12th April 1993 contended that none of the disputants involved herein having joined the organization of the managements prior to the cut-off date, the demand laid for their regularization by the union lacks merit.

13. Keeping in view the respective submission; the proposition of law propounded by the Hon'ble Apex Court and the materials available on record now it is to be examined as to how far the second party is able to justify its claim. There seems no controversy over the fact that the disputants are working as HR employees under the managements, as the list of employees submitted by the union vide Ext. 3 forms part of the record being not objected to by the first party managements and so also their continuance, as deposed to by M.W.1. There is also no controversy, as gathered from the evidence of M.W.1, that the disputants are being paid their monthly wages by the first party No. 2 irrespective of their engagement under either of the managements. Further, as it reveals from the record, particularly from Ext. 15, that by virtue of enactment of the Orissa Essential Services (Maintenance) Act, 1988, the services connected with the supply or distribution of water and maintenance of water works is covered under the definition - "essential service" and the Government in the Housing & Urban Development Department vide Exts.1 and 20 Exts. 1 and Ext. 20, taking into consideration the engagement of the disputants in essential nature of duties; their skill and experience and so also the compelling circumstances under which they used to work beyond normal duty hours and even during odd hours, was pleased to allow them special incentives of Rs.100 per day, firstly vide, order dated the 16th June 2015 and again vide, order dated the 2nd April 2018. On the face of the above documentary evidence, it can safely be said that there being necessity of the disputants for smooth functioning of the organization their continuance even after

the cut-off date i.e. 12th April 1993 is not found to be redundant, rather their services are being utilized treating them as separate class of employees, despite clear admission of M.W.1 that the disputants though not issued with any appointment letters but they were engaged as per the requirement of the managements upon their physical test and assessment of technical knowledge relating to P.H. work; that they are not covered under the EPF and E.S.I Schemes; that there is no provision for post-retirement benefits and rehabilitation assistance in respect of the disputants in case of their untimely death and that the disputants are deprived of the statutory benefits.

In the wake of the above, I feel it expedient to refer to the judgment dated the 5th February 2020 of the Hon'ble High Court of Orissa rendered in W.P.(C)No. 21759 of 2015 [Manorama Sahoo Vs. State of Orissa and others], wherein his Lordship taken note of the judgment of the Hon'ble Apex Court in the Case of Narendra Kumar Tiwari and others Vs. State of Jharkhand and others, reported in (2018) 8 SCC 238, which reads as follows:—

“The purpose and intent of the decision in Umadevi (3) was therefore two-fold, namely, to prevent irregular or illegal appointments in the future and secondly, to confer a benefit on those who had been irregularly appointed in the past. The fact that the State of Jharkhand continued with the irregular appointments for almost a decade after the decision in Umadevi (3) is a clear indication that it believes that it was all right to continue with irregular appointments, and whenever required, terminate the services of the irregularly appointed employees on the ground that they were irregularly appointed. This is nothing but a form of exploitation of the employees by not giving them the benefits of regularisation and by placing the sword of Damocles over their head. This is precisely what Umadevi (3) and Kesari sought to avoid.”

(Emphasis supplied)

Needless to mention that while the first party managements have relied on the guiding principle of Umadevi Case (*supra*) in one hand and have pleaded that in absence of sanction post and the ban imposed by the Government there handicapped to resolve the demand of the second party union, it allowed the continuance of the disputants in its organisation for nearly two decades, and that too with a meagre wages. This practice, in my view, is nothing but an exploitation of labour by no other than the instrumentalities of the Government, which are covered under the Orissa Essential Services (Maintenance) Act, 1988. Further, the non consideration of the demand of the second party union by the first party managements is found to be a sheer contravention of the observation of the Hon'ble Apex Court made in Narendra Kumar Tiwari's case (*supra*). As it reveals from record, the disputants involved herein have rendered continuous service under the first party managements for nearly nineteen years even after the verdict of the Hon'ble Apex Court in Umadevi's case and on each occasion whenever a demand is placed by the union seeking there regularization, the managements in one or the other reasons avoiding such demand allowed the disputants for payment of some incentives to retain the disputants in its organisation. From the conduct of the first party managements, there is reason to presume that the services of the disputants being indispensable they are still retained in the organisation on daily wage basis. On the face of the above-therefore the Tribunal is of the considered view that it is high time now for the first party managements to take a pragmatic view in connection with the demand of the second party union.

14. In the net result, it is held that the demand of the second party union for regularization of service of daily wage employees engaged under the first party managements is legal as well as justified.

15. *Issue No. (iii)*— Now, coming to the question of relief to which the disputant are entitled, a reference may be made to the recent judgements of the Hon'ble Apex Court in the case of *Jaggo Vrs. Union of India and others* [2024 INSC - 1034] and in the case of *Shripal and another Vrs. Nagar Nigam, Ghaziabad* [Civil Appeal No.8157 of 2024 - decided on dated the 31st January 2025], wherein their Lordships have observed thus:—

Uma Devi cannot serve as a shield to justify exploitative engagements persisting for years without the Employer undertaking legitimate recruitment.....Indian labour law strongly disfavours perpetual daily-wage or contractual engagements in circumstances where the work is permanent in nature.....At this juncture, it would be appropriate to recall the broader critique of indefinite “temporary” employment practices as done by a recent judgement of this court in *Jaggo v. Union of India* in the following paragraphs:—

22. The pervasive misuse of temporary employment contracts, as exemplified in this case, reflects a broader systemic issue that adversely affects workers' rights and job. In the private sector, the rise of the gig economy has led to an increase in precarious employment arrangements, often characterized by lack of benefits, job security, and fair treatment. Such practices have been criticized for exploiting workers and undermining labour standards. Government institutions, entrusted with upholding the principles of fairness and justice, bear an even greater responsibility to avoid such exploitative employment practices. When public sector entities engage in misuse of temporary contracts, it not only mirrors the detrimental trends observed in the gig economy but also sets a concerning precedent that can erode public trust in Governmental operations.

25. It is a disconcerting reality that temporary employees, particularly in Government institutions, often face multifaceted forms of exploitation. While the foundational purpose of temporary contracts may have been to address short-term or seasonal needs, they have increasingly become a mechanism to evade long-term obligations owed to employees. These practices manifest in several ways:

- **Misuse of “Temporary” Labels:** Employees engaged for work that is essential, recurring, and integral to the functioning of an institution are, often labelled as “temporary” or “contractual,” even when their roles mirror those of regular employees. Such misclassification deprives workers of the dignity, security, and benefits that regular employees are entitled to, despite performing identical tasks.
- **Arbitrary Termination:** Temporary employees are frequently dismissed without cause or notice, as seen in the present case. This practice undermines ‘the principles of natural justice and subjects workers to a state of constant insecurity, regardless of the quality or duration of their service.
- **Lack of Career Progression:** Temporary employees often find themselves excluded from opportunities for skill development, promotions, or incremental pay raises. They remain stagnant in their roles, creating a systemic disparity between them and their regular counterparts, despite their contributions being equally significant.

- Using Outsourcing as a Shield: Institutions increasingly resort to outsourcing roles performed by temporary employees, effectively replacing one set of exploited workers with another. This practice not only perpetuates exploitation but also demonstrates a deliberate effort to bypass the obligation to offer regular employment.
- Denial of Basic Rights and Benefits: Temporary employees are often denied fundamental benefits such as pension, provident fund, health insurance, and paid leave, even when their tenure spans decades. This lack of social security subjects them and their families to undue hardship, especially in cases of illness, retirement, or unforeseen circumstances.”.

16. Keeping in view the observation of Hon’ble Apex Court, as referred to *supra*, and the factual background behind the demand of the second party union coupled with the materials available on record, the first party managements are directed to initiate a fair and transparent process for regularizing the disputants involved in the dispute within six months hence, duly considering the fact that they have performed perennial nature of duties akin to permanent posts. In assessing regularization, the first party managements shall not impose educational or procedural criteria retroactively if such requirements were never applied to similarly situated regular employees in the past. To the extent that sanctioned vacancies for such duties exist or are required, the first party managements shall expedite all necessary administrative processes to ensure these long-time employees are not indefinitely retained on daily wages contrary to statutory and equitable norms.

17. In view of the discussion held in the preceding paragraphs, the reference is answered in following manner :—

The demand of the second party union for regularization of service of the disputants engaged under the first party managements being found to be legal and justified, the first party managements to initiate the process for their regularization in service as per the direction of this Tribunal contained in Para. 16 of this Award.

The reference is answered accordingly.

Dictated and corrected by me.

BENUDHAR PATRA
15-04-2025
Presiding Officer
Industrial Tribunal
Bhubanswar

BENUDHAR PATRA
15-04-2025
Presiding Officer
Industrial Tribunal
Bhubanswar

[No. 4967—LESI-IR-ID-0052/2021-LESI]

By order of the Governor

MADHUMITA NAYAK

Special Secretary to Government